

REMARKS

This Amendment is in response to the Office action dated November 12, 2003. All objections and rejections are respectfully traversed. Reconsideration and further examination of the Application as amended is respectfully requested. No new matter is being introduced.

The Abstract has been amended to meet the 150 word requirement. In addition, the first full paragraph of page 25 was amended to correct a grammatical error.

On page 2 of the Office action, claims 3-5, 8-11, 14, 15, 24 and 25 were rejected under 35 U.S.C. §112 as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Applicants respectfully traverse the 35 U.S.C. §112, second paragraph rejections. With regards to claim 3, the described step “storing the spanning tree port states at the ports” is not indefinite. It clearly identifies the step being performed, i.e., “storing”, the information to be stored, i.e., “the spanning tree port states”, and where that information is to be stored, i.e., “at the ports.” To limit this step to say what entity (or entities) do the storing would not somehow convert this claim element from being supposedly indefinite to being definite. Instead, it would merely serve to unnecessarily limit this claim element.

Likewise, with respect to claim 24, the described step “executing a consistency check between port state information at the newly active supervisor and port state infor-

mation at the ports" is not indefinite. It clearly defines the step being performed, i.e., "executing", and the function executed, i.e., "a consistency check between port state information at the newly active supervisor and port state information at the ports." To limit this step to say what entity (or entities) do the executing would not somehow convert this claim element from being supposedly indefinite to being definite. Instead, it would merely serve to unnecessarily limit this claim element.

Claims 5, 8 and 9 were amended to better claim the invention.

On page 3 of the Office action, claims 1, 2, 6, 12, 13, 16-20 and 23 were rejected under 35 U.S.C. §103 as being unpatentable over U.S. Patent 6,487,591 to Budhraja et al., hereinafter "Budhraja" in view of U.S. Patent 6,515,969 to Smith, hereinafter "Smith." Both of these patents, however, are not proper references under 35 U.S.C. §103(c).

The following is a quotation of 35 U.S.C. §103(c):

"(c) Subject matter developed by another person, which qualifies as prior art only under one or more subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person."

Applicants respectfully submit that both Budhraja and Smith are not proper references under 35 U.S.C. §103(c) against the present application as they only constitute prior art under §102(e), and they are commonly owned and assigned to the same entity as the present invention.

Statement establishing common ownership.

This application, Serial No. 09/644,377, filed August 23, 2000, and U.S. Patent Nos. 6,487,591 to Budhraja et al., issued November 26, 2002 and 6,515,969 to Smith, issued February 4, 2003 were, at the time the invention of this application was made, owned by Cisco Technology, Inc.

The foregoing statement meets the requirements of MPEP §706.02(l)(2) for establishing common ownership.

On page 4 of the Office action, claim 7 was rejected as being unpatentable under 35 U.S.C. §103 over Budhraja in view of Smith and in further view of U.S. Patent 6,628,661 to Goldman et al., hereinafter “Goldman.” Applicant respectfully urges that claim 7 is dependent on an independent claim Applicant believes is allowable and therefore is allowable.

All independent claims are believed to be in condition for allowance. All dependent claims are dependent on believed to be allowable independent claims and are therefore believed to be in allowance.

Quick favorable action is respectfully requested.

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Respectfully submitted,


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